The importance of the object sought after—the preservation of a source of great wealth—seems to amply justify such legislation, as courts have held waste by one surface owner did not give an action to another suffering loss thereby. *Hague* v. *Wheeler*, 157 Penn. St. 324; *Jones* v. *Forest Oil Co.*, 44 Atl. Rep. 1074; the State ought to have the power by legislation to curb indiscriminate waste which might involve the loss of entire oil and gas deposits.

ASSOCIATED PRESS—DUTY TO PUBLIC—ILLEGAL CONDITIONS.

The recent case of the *Inter-Ocean Pub. Co.* v. *Associated Press Co.*, 56 N. W., Rep. 822, makes a new application of the law of monopolies which is of great importance. The *Inter-Ocean* was a member of the Associated Press Co., under contract to receive its news upon condition that it was neither to furnish nor receive news from outside companies deemed antagonistic. It violated its covenant by receiving from the Sun Printing and Publishing Co. news which the Associated Press was unable to furnish. By its agreement this rendered it liable to suspension from the Associated Press. An injunction is granted to prevent this, on the ground that the business of the Associated Press is impressed with a public interest, and must be carried on without discrimination, and that the provision in its by-laws requiring the exclusive use of its news as a condition of membership is void, as tending to create a monopoly.

This puts associations for collecting and vending news upon a plane with common carriers, telephone and telegraph companies as to their duty to treat all impartially; and news is deemed a commodity of public necessity which, like coal, gas, water, etc., it is illegal to monopolize. The justice and logic of this view can hardly be denied and is well supported by authority. A board of trade cannot withhold market quotations after a compliance with reasonable rules. *N. Y. & Chicago Exchange* v. *Chicago Board of Trade*, 127 Ill. 153. And telegraph and telephone companies must serve indiscriminately, their duty to the public being superior to any contract which they may have with an owner, whose patent they use. *Com. Union Tel. Co.* v. *N. E. Teleg. & Telp. Co.*, 6 Vt. 241; *Chesapeake Co.* v. *B. O. Tel. Co.*, 66 Md. 399; though this is denied in *Amer. Tel. Co.* v. *Conn. Tel. Co.*, 49 Conn. 352.

The duty of the Associated Press to the public is paramount to the rights it had under contract against the *Inter-Ocean*, and a provision compelling the exclusive use of its news is there-

fore against public policy and void. It undoubtedly tends to create a monopoly and gives to its possessor the power to dictate what news the public shall receive, regardless of what it ought to have. This is a power too dangerous and vital to be above public control, and is not such a reasonable regulation as all quasi-public corporations have the right to prescribe. *Smith* v. *Tel. Co.*, 42 Hun. 454. Nevertheless, a similar restriction was held good in New York on the ground that a coöperative society had the right to make rules governing its members.

Had the court decided in the present case that such was a reasonable regulation as only a partial restraint of trade, it might then have presented the interesting Federal question as to whether it would not come under the Anti-Trust Act of 1890, declaring combinations in restraint of interstate commerce void without regard to their reasonableness. From what Chief Justice Marshall said in *Gibbons* v. *Ogden*, 9 Wheat. 1, it might be that interstate news which is bought and sold is included within interstate commerce.

TRUSTS—PRACTICAL OPERATION OF THE REMEDY ADOPTED BY TEXAS.

The amount of discussion and divergence of opinion expressed in recent magazine publications, more than any complication of legal principles involved, induces us to review the recent decision of the Federal Supreme Court in the case of *Waters-Pierce Oil Co.* v. *State of Texas*, 20 Sup. Ct. Rep. 518, in which proceeding the defendant company has been forbidden doing business in the State of Texas, being held to have violated certain provisions of the Texas anti-trust law, and thereby having forfeited its license. The principles of law announced are extremely important, though they seem quite well settled.

The usual law exists in Texas (Acts of 1889, p. 87) whereby a foreign corporation, upon filing a certified copy of its articles of incorporation with the Secretary of State, secures a licence to do business in the State. The Waters-Pierce Oil Co., complying with these provisions, obtained such a license for a period of ten years, and engaged in active business. Subsequent to the issuance of this license an anti-trust law was passed, and this proceeding was brought against the plaintiff in error, alleging a violation of this law, and praying that its license be revoked.

It is clear, construing the statute according to the interpretation given it by the Texas courts, that no question of interstate commerce is involved; commerce consisting in the trans-